

LAW OFFICES OF  
**ABE LAMPART**  
A PROFESSIONAL CORPORATION

456 MONTGOMERY STREET · SUITE 1300  
SAN FRANCISCO, CA 94104

ABE LAMPART  
MEMBER CA & NY BAR

TEL: 415-274-0999  
FAX: 415-274-2563

April 10, 2008

Via Email ([rule-comments@sec.gov](mailto:rule-comments@sec.gov))

Ms. Nancy Morris  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington DC 20549

**Re: File No. SR-FINRA-2007-021**

Dear Ms. Morris:

Since 1980, I have been represented broker-dealers, investment advisors and other investment professionals in arbitration and litigation. I was employed for twelve years at a major "wire house," eight years at a regional broker-dealer, and the remaining eight years in private practice. I write in connection with the aforementioned proposal limiting dispositive motions.

I concur with the comments submitted by the Securities Industry and Financial Markets Association ("SIFMA") on April 7, 2008. Because SIFMA's comment letter is both thorough and compelling, I will be brief in the following observations.

The Financial Industry Regulatory Authority's ("FINRA") statements in support of the proposal suggest that a significant if not overriding concern that led to the proposal in its current form is the filing of abusive and duplicative dispositive motions. That abusive motions are filed at all is regrettable. Indeed, FINRA's attempt to eliminate them is commendable. However, to borrow an old proverb, the current proposal throws the baby out with the bath water.

Legitimate dispositive motions should be neither discouraged nor limited to unduly restrictive grounds. Instead, as SIFMA points out, the threat of sanctions should be sufficient to deter abusive or frivolous dispositive motions. For the few firms and counsel that are not deterred, the imposition of sanctions is the appropriate penalty if a panel determines that a motion is abusive, frivolous or made in bad faith.

Moreover, the proposed rules would not serve the interests of either the investor, the firm or FINRA if the parties and FINRA are required to incur the costs, and expend

Ms. Nancy Morris, Secretary  
Securities and Exchange Commission  
April 10, 2008  
Page 2

the time and resources, of proceeding to and through a hearing in a case which is likely to be dismissed on the very same grounds that now form the basis of a valid dispositive motion. An example is a claim that is clearly time-barred under applicable statutes of limitations, but still within the eligibility rule time period.

In conclusion, the rule proposal in its current form should not be approved. The amendments to the rule proposal offered by SIFMA should be incorporated and adopted.

Thank you for the opportunity to comment on the proposed rules governing dispositive motions.

Very truly yours,

LAW OFFICES OF ABE LAMPART, P.C.

  
Abe Lampart

AL:sf